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ABSTRACT

Scholars have called for an integration of knowledge of the jury trial process, and in response, this paper argues that the contingency rules theory of communication can integrate and advance understanding of the trial. Four common approaches to the study of the trial are outlined briefly and criticized: the jury characteristic approach, the jury attitudes approach, the group dynamics approach, and the storytelling approach. Then, the contingency rules model is explained and examined relative to other approaches. The paper concludes that the contingency rules approach to the trial offers four advantages: (1) it integrates the findings of other approaches to the trial without losing precision; (2) it logically subsumes other approaches to the trial, offering greater explanatory power; (3) it is more parsimonious; and (4) it is heuristic. Finally, suggestions for applying the contingency rules model to the trial process are advanced. Twenty references are appended. (Author/SKC)

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The Contingency Rules Theory as a Theory of Trial Behavior

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Abstract

Scholars have called for an integration of our knowledge of the jury trial process (Saks & Hastie, 1978; Simon, 1975). In response, it is argued that the contingency rules theory of communication (Smith 1982a, 1982b, 1984) can integrate and advance our understanding of the trial. Four common approaches to the study of the trial are outlined briefly and critiqued. Then, the contingency rules model is explained and critiqued relative to other approaches. It is concluded that the contingency rules approach to the trial offers four advantages: 1) it integrates the findings of other approaches to the trial without losing precision; 2) it logically subsumes other approaches to the trial, offering greater explanatory power; 3) it is more parsimonious; and 4) it is heuristic. Finally, suggestions for applying the contingency rules model to the trial process are advanced.

During the last 20 years, jury trial research has gained a great deal of attention from both the legal and and social scientific communities (Hastie, Penrod, & Pennington, 1983). Although this research has focussed on a great many variables and processes ranging from pretrial attitudes and procedures to final trial outcomes, the ultimate aim of trial research is to explain and predict jury verdicts. Because of the diversity of the trial process and the number of approaches that have been used to study jury behavior, this body of literature is diverse and poorly integrated (Simon, 1975). Further, critics argue much of this research lacks a sufficiently explanatory theoretical basis (Saks & Hastie, 1978).

This essay examines the trial literature from a framework that can integrate many diverse findings from previous research and ground them in an explanatory theoretical model. Specifically, it is argued that the contingency rules theory (Smith, 1982a; 1982b; 1984) provides an attractive alternative to the multiplicity of approaches that have been used to study jury behavior. Toward this goal, (1) common approaches to the study of the trial are discussed and appraised, (2) the contingency rules model is explicated, (3) the contingency rules theory is applied to trial research, (4) and conclusions and future directions for the study of the trial process from the contingency rules perspective are proposed.

Approaches to the Study of the Trial

Four approaches are typical of current jury behavior research: the jury characteristics approach, the jury attitudes approach, the group

dynamics approach, and the story-telling approach. Each of these models differs in terms of the factors that are hypothesized to influence jury verdicts, and in their levels of explanatory and predictive power.

The Jury Characteristics Approach

The jury characteristics approach attempts to predict jury verdicts on the basis of the demographic composition and enduring personality traits of the jury (Saks & Hastie, 1978). This practice is based on an assumption that has been implicit in the practice of law for some time; the composition of the jury is one of the most important determinants of a trial's outcome (Brumbaugh, 1917). Juror gender, age, race, socioeconomic status, and education have been the most widely studied demographic characteristics (Hastie, Penrod, & Pennington, 1983); authoritarianism and dogmatism constructs have enjoyed the lion's share of the personality trait research (Saks, 1976). This approach contends that jurors' verdicts are associated with their background characteristics.

The characteristics approach, however, has several limitations. First, the approach has not been able to successfully predict jury verdicts. Clear relationships between jury characteristics and jury verdicts have not been discovered (Hastie, Penrod, & Pennington, 1983; Saks, 1976). Second, this approach does not consider the influence of trial proceedings on verdicts. It seems ironic that the trial proceedings would not influence trial outcomes. Third, and most important, the jury characteristics approach is not explanatory. While

the ability to predict verdicts may be worthwhile from a litigator's perspective, this atheoretical approach cannot improve our understanding of the trial process. The jury characteristics approach is lacking as a model of the trial.

The Jury Attitudes Approach

The jury attitudes approach explains and predicts jury verdicts on the basis of jurors' attitudes toward trial issues (Ellsworth & Fitzgerald, 1983; Saks & Hastie, 1978). The attitude construct is invoked as a mediating variable between jurors' pretrial beliefs about case issues, trial arguments, and verdicts. The American Jury (Kalven & Zeisel, 1966) pioneered this approach to the study of jury behavior. This study surveyed hundreds of jurors who participated in numerous trials in the Chicago area. Judges' reasons for decision were also polled. Judges' reasons were considered to be legal facts. When jurors' reasons for decision were compared with judges' reasons it was found that jurors rendered verdicts in over 46% of the trials because of attitudes they held prior to the trial proceedings.

Since the conclusion of The American Jury, over 160 studies have attempted to predict jury verdicts on the basis of juror attitudes (Hastie, Penrod, & Pennington, 1983). These studies, however, have been unable to consistently predict jury verdicts at a rate much better than chance. For example, Penrod (1979) collected attitudinal and demographic data from 367 jurors, who jurors rendered verdicts in four simulated trials. Juror demographics and attitudes together accounted for less than 10% of the variance in the verdicts rendered. Findings

such as these have led a number of researchers to question the efficacy of the attitudinal approach to jury behavior (Saks, 1976; Penrod, 1979; Hastie, Penrod, & Pennington, 1983).

Although the attitudinal approach offers some explanatory calculus, it is not adequate as a model of the trial. This approach cannot capture the richness of the trial process. The lack of empirical support for this model has led researchers to attempt to tap more and more attitudes in the hope of measuring structures salient to trial outcomes. This has only compounded our confusion, making it more and more difficult to generalize across trials. The question still remains, "what causes particular attitudes to be salient for particular jurors in a particular type of trial" (Saks, 1976). Tapping more attitudes cannot answer this question. Further, the attitude construct has not been shown to successfully predict behavioral outcomes (Miller, 1980; Miller & Burgoon, 1978) such as verdict rendering without burdensome specificity. Without a higher-order theoretical statement to explain why particular attitudes are salient for some jurors but not others, the attitudinal approach will be unable to explain trial behavior adequately.

The Group Dynamics Approach

The group dynamics approach attempts to predict and explain jury behavior on the basis of the structure and process of juror interactions. The structural and processual factors that have been studied include role relationships in the deliberations, verdict faction formation, and juror communication networks (Saks & Hastie, 1978). Research from this perspective indicates that a jury's predeliberation verdict

preference predicts their final verdict in over 70% of the trials tested (Hastie, Penrod, & Pennington, 1983). Thus, a jury in which the majority of the members believe the defendant is guilty after hearing the trial evidence, is likely to render a verdict of guilty after the deliberations. As such, the group dynamics approach is essentially a theory of the trial deliberations.

While a knowledge of the structure and process of jury deliberations has given us many insights into jury verdicts, it is deficient as a model of the trial. The model does not explain why or how jurors formulate predeliberation verdicts. It is does not offer insights into the relevant predeliberation trial structures or processes. Although a 70% prediction rate seems phenomenal, when chance factors and community conviction rates are considered, group dynamics accounts for less than 10% of the variability in trial outcomes (Saks, 1976). Further, the model is largely descriptive of the deliberation process, not explanatory. It has not given us a mechanism to explain why initial minority verdict factions can sometimes sway the majority or force a hung jury. Thus, the group dynamics approach is not sufficiently explanatory, even within the domain of the jury deliberations.

The Story-Telling Approach

In reaction to variable analytic approaches to the trial, several scholars have adopted the story-telling approach to jury behavior (Beach, 1985; Bennett & Feldman, 1981; Nofsinger, 1983). This theory suggests that jurors create stories from trial testimony; the most

plausible story being the one that best fits the juror's own experience. Proponents of this perspective maintain that plausibility is determined by the amount of ambiguity in the story; when a story is unambiguous, the jury perceives the story as accurate. The story-telling model is a systemic and phenomenological approach to the study of jury decisions. Hence, the story-telling model posits that jurors render verdicts on the basis of the ways in which they reconstruct the crime through stories.

Even though the story-telling model offers new insights into the trial process it is quite limited. The model explains jury verdicts from the perspective of the lawyer as a story-teller; it fails to consider the jurors' perspectives as story-listeners (Mation, 1985). The model cannot equate story plausibility with verdict rendering without sacrificing precision or power. By limiting predictions to story structure, the model fails to consider many other important aspects of the trial process including the influence of the deliberations on story construction, jurors' motivations to listen to particular stories, and extralegal influences on the jury; factors that influence jurors to vote in a direction inconsistent with the most plausible story. However, by holding that jurors' life experiences help them determine plausibility, the model's models predictions become less precise and generalizable. The domain of this approach is restricted.

General Critique

Each of the previous theories, while incomplete, has made an important contribution to the study of jury behavior. The characteristics approach has signified the importance of jurors' life

experiences on their verdicts. The attitudinal approach has demonstrated the importance of extralegal factors on jury behavior. The group dynamics approach has shown that structures and processes during the deliberations affect trial outcomes. And, the story-telling model has given insights into the structure and function of case themes and testimony. While each of these research approaches can uncover the importance of particular factors during various stages of a trial, none of them can function to integrate our knowledge of the trial process as a whole.

Many investigators have called for an approach that integrates our knowledge of the trial process. Erlanger (1970) has argued that scholars will be unable to determine why some juries apparently render verdicts on the basis of previously held attitudes while others do not, until we have a more complete theory of the trial. Simon (1975) has called for an integration of the broad and poorly integrated body of jury behavior literature so that we might uncover macroscopic trends in the trial process. Sealy (1979) has suggested that future investigators should strive to study jury behavior from a perspective that considers the multiplicity of factors that are operational during any trial. Without integration, scholars will lack the perspective needed to advance understanding and inform trial policy.

Other investigators have suggested a starting point for a theory of the trial. Simon (1975) has suggested that "the anticipated social consequences to a juror rendering a particular verdict may be a possible starting point for a synthesis of the jury literature" (p. 116).

Hastie, Penrod, and Pennington (1983) have argued that "a juror's previous world knowledge of the domain of events that are relevant to a case is the most important individual ingredient in a juror's verdict" (p. 130). Yet, an integrated theory of the trial has not been advanced.

The rest of this paper is devoted to explicating a communication theory that can serve to integrate and guide trial research. The contingency rules model promises to be a worthwhile starting point for such an approach to the study of jury behavior. A juror's anticipated social consequences and previous world knowledge are central to explanations from a contingency rules perspective. For this reason, the contingency rules approach to the study of jury behavior is proposed.

The Contingency Rules Theory

It is argued that the contingency rules theory of communication can serve to integrate prediction and explanation of the trial because the social consequences that jurors anticipate during the trial process are at the core of contingency rules explanation. What follows is an outline of the central propositions of the contingency rules theory.

The contingency rules theory maintains that rules are intrapersonal goal-action links. The theory assumes that rules function to create meaning and guide interaction through actors' expectations about the consequences of their behaviors. Thus, people choose to behave in particular ways and assign meanings to behaviors according to the consequences that they anticipate their behaviors will create. "More specifically, behavioral contingency rules are hierarchically interrelated and temporally ordered sets of

expectations, each of which represents a person's beliefs about how some particular action sequence is related to its anticipated consequences" (Smith, 1982a, p. 360).

According to the contingency rules model, message production and responding is governed by the type of consequences people anticipate their behaviors will entail. Further, the model postulates two sources of anticipated consequences: internally imposed by the actor, and extrinsically imposed by the environment.

Smith refers to rules that derive their practical force from expectations of internally imposed sanctions as *evaluative rules* Evaluative rules link "behavior to self-established standards for behaving including basic values and central beliefs about the self, in short to the kind of person one perceives the self to be" (Smith, 1982a, p. 360). For instance, in a courtroom situation, a juror who renders a guilty verdict because the juror perceives the self "tough on crime," would have used an evaluative rule.

Smith (1984) has identified two types of evaluative rules: *self-identity* rules, and *image-maintenance* rules. Self-identity rules link message selection and responding to personal values that constitute one's conception of the self. As such, "self-identity rules obligate a person to produce and respond to messages in ways that promote the establishment and maintenance of a desired private self-concept" (Smith, 1982a, p. 360). Image-maintenance rules link behavior to self-presentational or impression-management concerns. Image-maintenance rules compel one to create and respond to messages

in ways that portray one's desired public self-identity. Both self-identity and image-maintenance rules are evaluative in that they link behaviors to self-imposed values and standards. They derive their practical force from self-administered sanctions.

In contrast with the evaluative rules, Smith (1984) refers to rules that derive their practical force from expectations of externally-imposed consequences as *adaptive* rules. Adaptive rules link behaviors with extrinsic goal-achievement concerns. Adaptive expectations include the acquisition of valued environmental and social consequences and the avoidance of negative ones. For example, a juror who votes guilty because "I can protect justice in my community," has used an adaptive rule.

Smith (1984) has postulated the existence of three types of adaptive rules: *environmental contingency* rules, *interpersonal relationship* rules, and *social normative* rules. Environmental contingency rules relate communication behaviors to consequences concerning the physical well-being of self and others. The environmental contingency rule user expects consequences that affect the health, safety, and other aspects of the material well-being of self and others. Interpersonal relationship rules link interactions with the establishment and maintenance of relationships. Thus, interpersonal relationship rules compel one to act in a manner that has consequences on the establishment and maintenance of personally satisfying relationships. These concerns might include expectations of inclusion, affection, and approval. Social normative rules link communication

behaviors with cultural norms. These rules specify behaviors that must be taken or avoided in order to secure one's place in society. Thus, social normative rules concern expectations about one's social status, cultural acceptance, and political advantage in the community.

Smith argues that the context in which communicators interact determines the particular configuration of rules governing their behavioral choices. Further, the contingency rules model postulates two dimensions of context that influence behavioral options: *potential*, and *actual*. Smith maintains that a communicator's mix of evaluative and adaptive contingency rules is determined by the interaction of these two contextual dimensions.

The potential level of the interaction context consists of the variables that are not under the volitional control of the communication participants. This context consists of variables such as individual communication competencies, enduring psychological traits such as authoritarianism or dogmatism, physiological states such as arousal and fear, each communicator's social and economic status, and situational exigencies of the setting. Each of these relatively static elements of the interaction is hypothesized to influence the purposive choices that each participant may select. In short, the potential context forms a boundary within which purposive behaviors may occur.

The actual dimension of the interaction context is a function of human choice-making behavior within the relatively static potential context. Thus, the actual context is defined by elements of the communication process that participants actively choose from within

the boundaries established by the potential context. These elements include such things as the selected location of the interaction, the nature of the desired relationship between the communicators, the intentions of the communicators, the communicators' coorientation toward the communication issue, and the participants' desired outcomes (see Cody & McLaughlin, 1980 for a related discussion). Hence, the actual component of the interaction context is actively selected by the communication participants.

From the contingency rules perspective, context functions to determine a communicator's mix of operative rules. In a trial setting, for example, the potential contextual element dogmatism coupled with the actual contextual elements low intimacy and high dominance among the participants would foster predominantly social normative rules and self-identity rules. In contrast, in contexts characterized by high intimacy, low resistance, and low dominance interpersonal relationship rules would be used. In short, the contingency rules theory maintains that context determines a communicator's mix of behavioral contingency rules. In turn, contingency rules govern the ways in which people produce and respond to messages.

Although limited, empirical support for the contingency rules model has been quite positive. In a series of studies, Smith (1982a,1982b, 1984) supported three central propositions of the contingency rules model. First, responses to messages can be reliably explained by the theory. Self-evaluative and adaptive rules have accounted for about one-third of the variance in subjects' responses to

persuasive messages across nine contexts. Second, communicators' mixes of contingency rules are determined by the contexts in which they interact. The use of self-evaluative and adaptive rules has been shown to vary sharply in predictable ways according to potential and actual dimensions of the communication situation. Third, behavioral contingency rules have accounted for seven times as much variance in responses to persuasive messages as have attitudinal models, indicating that the model's goal-action linkages are closely tied to behavioral outcomes. While more research from the contingency rules model is required, support for the central propositions of the theory is quite is strong.

Trial Behavior From a Contingency Rules Perspective

The overall purpose of our discussion has been to suggest that the contingency rules theory of communication offers a superior mode of explanation in the trial process. This section of the paper offers a view of the trial from the contingency rules perspective, compares the proposed mode of explanation to current approaches to the trial, and appraises the contingency rules theory as a model of the trial process.

Contingency Rules Explanation

The contingency rules model offers an attractive means of explaining and predicting the trial. From this perspective, jury decisions are functions of the rules that jurors use to render verdicts. A juror's social knowledge of the trial issues, the fixed elements of the court setting, and juror demographic and personality characteristics form the potential component of the trial context. The changeable

elements of the trial, such as the arguments in the case, the relationships among the jurors, the demeanor of the litigants, case themes and theory, and other variables, constitute the actual component of the interaction context. These contextual cues determine jurors' mixes of self-evaluative and adaptive rules. The contingency rules theory maintains that jurors' mixes of evaluative and adaptive rule structures govern the ways they respond to messages during the trial process, generate and respond to messages during the deliberations, and ultimately the verdicts they render.

This approach would foster more precise explanation and prediction of trial outcomes. A trial conducted in the context of cues that signal evaluative rules would lead the jury to respond to the trial issues from a framework that emphasized self-imposed standards for behaving. In contrast, if the contextual cues signaled adaptive rules the same case information would be evaluated from the perspective of externally imposed behavioral sanctions. Consider a capital punishment case in which the theme, "killing is immoral, regardless of the reason" is advanced. If the context specified self-evaluative rules, jurors would respond to this issue from the perspective of their values and moral or ethical standards of behaving. In turn, jurors most likely would comply with messages that emphasize moral and ethical concerns. Contrarily, if adaptive rules predominated, jurors would respond to the same message from the perspective of their concerns for the health, safety, and general well-being of the community. Messages concerning personal standards for behaving would be

predicted to have little influence. Clearly, very different responses to the same case issues would be predicted as the trial context varies.

The contingency rules theory hypothesizes three primary types of trial situations: evaluative, adaptive, and evaluative-adaptive. Evaluative situations would promote self-identity and image-maintenance rules. This would lead jurors to respond to trial messages and produce messages during the deliberations that are reflections of their self-identities. It is argued that jurors in this situation would be highly resistant to persuasive appeals to change a verdict preference during the deliberations, since the verdict preference would be a manifestation of a relatively static self-image. The evaluative juror would not be concerned with social or community ramifications of a verdict since societal and environmental concerns would be of little importance to the evaluative juror. Several other characteristics would be typical of the evaluative juror, all centering on the promotion and maintenance of a desired self-image.

Adaptive situations would foster interpersonal relationship, environmental contingency, and social normative rule structures. Thus, externally imposed sanctions for behaving would be quite salient. This would most likely result in a juror that is concerned with the correctness of the verdict in terms of societal standards. Further, the adaptive juror would probably be willing to listen to persuasive appeals from other jurors during the deliberations, since interpersonal concerns are important. In contrast to the evaluative juror, the adaptive juror would be influenced less by personality syndromes such

as dogmatism, since self-identity concerns are not salient. Hence, the adaptive juror is likely to adapt to the trial situation in a manner specified by case issues, social norms of behaving, and environmental concerns as determined by externally anticipated sanctions for behaving.

The evaluative-adaptive situation would make both evaluative and adaptive rules salient. All of the concerns relevant to both the evaluative and the adaptive juror would be important to the evaluative-adaptive juror. Although jurors in this situation could act on the basis of private desires and standards, they would also exhibit social consciousness, concern for justice, and a pragmatic concern for the health and safety of the community. This type of juror would behave in reference to a multiplicity of concerns during the trial.

In short, the contingency rules theory holds that rules govern behavior during the trial process, and that a particular juror's mix of rules is determined by the interaction of changeable elements in the court setting operating within fixed contextual boundaries. Following Smith's (1982b) discussion of context, scholars can determine which rules will be operational in a given trial setting, hence, predict and explain they ways jurors produce and respond to trial messages. To demonstrate the efficacy of this approach to the trial, the contingency rules model is compared to other methods of studying trial behavior.

Comparison of Approaches

The contingency rules approach to the trial integrates the features of the four approaches to the trial that were discussed previously. The

jury characteristics approach attempts to predict verdicts on the basis of the demographic and personality traits of the jury. From the contingency rules perspective, fixed jury characteristics such as ethnicity, socioeconomic status, age, dogmatism and authoritarianism are part of the potential context of the trial. These elements partially determine which configuration of behavioral contingency rules will govern message production and reception during the trial process. While the characteristics approach views these enduring traits as the major determinant of the trial outcome, the contingency rules perspective argues that these characteristics form fixed contextual boundaries within which jurors engage in purpose behavior. Hence, the contingency rules theory incorporates these elements into its explanatory calculus while acknowledging the influence of other factors on trial outcomes.

The contingency rules model incorporates the attitudinal model also. The attitudinal model posits that juror attitudes mediate responses to trial messages. However, this approach has been unable to find attitudes that can predict trial behaviors and outcomes from one trial to the next. The contingency rules approach subsumes and improves upon the attitudinal approach by adding the notion of contextualized goal-action rules as a higher-order theoretical proposition. Since attitudes constitute part of the actual interaction context, by defining the contexts in which various types of contingency rules are operational (see Smith, 1982b for a related discussion), the rules approach can predict and explain when particular attitudes

toward trial issues are salient. For example, a juror who holds the attitude "I'm tough on crime," would operationalize this attitude when contextual cues lead to predominantly evaluative rules. However, when adaptive rules are operationalized the "I'm tough on crime" attitude would not be relevant, since externally anticipated sanctions would govern the juror's behavior. Further, the contingency rules theory can explain why certain attitudes may or may not be strong enough to be operationalized as behaviors (especially in the form of verdict rendering) since behavioral contingency rules are action/consequence sequences. In contrast, the attitude construct has not been shown to reliably mediate behaviors (Miller, 1980; Miller & Burgoon, 1978). Clearly, the contingency rules approach subsumes the attitudinal approach to the study of the trial.

The proposed model also incorporates the group dynamics approach. While not examining the structure and process of the deliberations directly, the contingency rules theory can predict and explain the messages that jurors produce and respond to during the deliberations (see Smith, 1984 for a related discussion). By identifying the salient behavioral contingency rules, we can explain faction formation, the issues that will predominate the deliberations, and factors affecting the formation of relationships among the jurors. For example, when social normative, environmental, and self-identity concerns are salient, juror networks should not reliably predict verdicts. However, when image-maintanence and interpersonal relationship rules predominate, juror factions should exert a strong

influence on trial outcomes. In contrast to the group dynamics approach, the contingency rules theory will not describe deliberation processes but offer explanations for these phenomena based on the relevant operational schemata.

Finally, the contingency rules theory can incorporate the findings of the story-telling model. A central proposition of the proposed model is that behavioral contingency rules govern the ways in which people process and respond to messages. Hence, the framework from which jurors evaluate trial testimony is explainable and predictable from the operational rule structures. Further, the rules model can explain juror evaluation of testimony from the juror's perspective as a story-listener, and in an *a priori*, predictable manner. The model is generalizable because of the central role of context.

Critical Appraisal

The contingency rules approach to jury behavior offers four advantages over the other approaches. First, the contingency rules model is broader in scope than the other approaches without sacrificing precision. The other four approaches focus on very limited aspects of the trial process: The characteristics approach examines only jurors' background characteristics, virtually ignoring the trial proceedings. The attitudinal approach examines how attitudes mediate persuasive messages during the trial, ignoring actual contextual cues during the trial and deliberation processes that make particular attitudes salient. The group dynamics approach examines only the jury deliberations. The story-telling model examines the structure of courtroom

messages, failing to consider most factors that mediate message reception, message production, and background characteristics. In sharp contrast, the rules approach considers all of these elements in the explanation of trial outcomes. Juror background characteristics and attitudes are considered part of the potential context of the trial. Together with the actual components of the context which are under the volition of the jurors, these characteristics determine the operational behavioral contingency rules. These rules govern jurors' message production and responding behaviors during the trial, including evaluation of testimony and trial messages, responses to messages and production of messages during the deliberations, perspectives from which messages during the trial will be evaluated, and motivations to render verdicts. Because the contingency rules theory incorporates all of these elements into one mode of explanation it is well suited to integrate our knowledge of the trial process.

Second, the rules approach logically subsumes the other modes of explanation. The two central propositions of the contingency rules theory; 1) that communication behavior is governed by self-evaluative and adaptive schemata, and 2) the actual context determines the mix of behavioral contingency rules that govern communication behavior, more fully explain the trial process than the other approaches taken together. As discussed, the explanations and predictions of the other approaches can all be generated from the contingency rules theory. Thus, the proposed model offers a superior mode of explanation.

Third, the contingency rules model is parsimonious. Because the

contingency rules model can explain the trial process more fully than other approaches, with fewer propositions, it is a more elegant theoretical formulation.

Fourth, the contingency rules model is heuristic. In contrast to the other approaches, the proposed model can guide research and generate systematic hypotheses. For example, Smith (1982b) has delineated eight dimensions of the actual context that influence communicators' rule structures. These dimensions can be operationalized in mock or actual trial settings to determine their impact on trial process and product. Too, because different rules are operationalized by different contexts the theory can explain why certain attitudes are salient in some trials, but not others. Investigators could operationalize different contingencies across trials to determine how rules mediate beliefs and evaluations of trial issues. Researchers could also manipulate contextual contingencies to determine how purposive behaviors impact and mediate juror background characteristics to discover why these traits are sometimes operational and other times overridden. A host of research questions is implicit in the contingency rules approach to the trial.

Conclusions and Future Directions

It has been argued that the contingency rules theory offers an attractive alternative to other modes of studying jury behavior. The contingency rules model has the potential to incorporate all facets of the other approaches, and more, into a single model. Further, the rules model promises to offer superior explanation and prediction of the trial

process. As yet, however, the theory is untested in the trial setting.

A great deal of empirical testing and conceptual refinement must be conducted if the contingency model is to emerge as a viable approach to the study of jury behavior. It must be demonstrated that contingency rules govern trial behaviors. Also, contingency rules theory predictions should be pitted against predictions from the other approaches to determine that the proposed mode of explanation is superior. Finally, propositions should be formulated and tested that place the theory squarely within the context of the trial, if it is to function as a model of the trial process.

It is not contended that other approaches to the trial should be abandoned. Instead, it is suggested that it is worthwhile to compare theoretical models of trial behavior. Only through advancing a theory of the trial will scholars be able to gain the perspective needed to improve our understanding of the trial process. Given that support for the contingency rules theory in other communication contexts has been so positive, and that the theory's tenets are readily and easily applicable to the trial, the contingency rules theory holds the promise of integrating and expanding our knowledge of the trial process. It is hoped that through theoretical and empirical refinement the contingency rules model will realize its potential as a tool for studying trial behavior.

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